

DETAILED ACTION

1. This Office Action is responsive to the correspondence filed 02/18/2010, herein the Response (“Resp.”) which was responsive to the office action dated 08/18/09 (herein “last OA”). Claims 25-44 were and remain pending, and were not amended. Claims 25, 42, 44 (all method) are independent.

Response to Arguments as to Claim Rejections under 35 USC § 103

2. Applicant's arguments as to the prior art applied, filed on 02/18/2010 have been fully considered but are not persuasive.

Claims 25-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Mathai US 6847969 B1, Baidya US 20030046311 A1, the definition of “event”, and Jaeger et al, US 6650346. The rejection is maintained.

Applicants argue improper hindsight, conclusory statements, reengineering of structures of the prior art and recombination thereof.

The Examiner disagrees.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The motivations to combine are amply articulated in the discussion under 35 U.S.C. 103(a) below and the reconstruction is proper, based on knowledge which was within the level of ordinary skill at the time the claimed invention was made, not from Applicants' disclosure only.

Applicants also argue there is no definition of the “PHOSITA” (a person having ordinary skill in the art at the time the invention was made). The Examiner notes the level of skill of the Phosita is shown by the references.

To re-summarize the instant invention and the prior art applied, as stated in the last OA at p. 3, “during the interview on 09/04/2008, the Applicants’ representative, Mr. Pate, explained that **the invention essentially consists of three parts: the event data harvesting part to create a database of events and related data (“calendaring” data); an advertising bidding by advertisers part; and a part about consumers searching for events to whom search results and advertising are presented.** The claims are herein so interpreted.

The last two parts of the invention are taught by Chu in view of Mathai.

Chu taught the advertisers’ bidding part and serving of content and ads to searchers. **Mathai teaches serving to searchers, campus events (e.g. col. 16 lines 49-50) as well as ads.** Since an event is “something that occurs in a certain place during a particular interval of time, see <http://dictionary.reference.com/browse/event>”, associating time, date and location)(i.e. “calendaring data”) of the particular event to the event would have been obvious to allow searching by those parameters...). “. It also would have been obvious to a “PHOSITA” to substitute to any requested data by a Chu user, events or calendaring data as taught by Mathai, to allow the consumer user to search and obtain events data.

The first part (event data harvesting part and database creation) is taught by BAIDYA. Harvesting by humans is taught by Baidya and Jaeger.

While the data in Baidya and Jaeger is different than those claimed (events and calendaring data), it would have been obvious to add their teachings of database creation technique in the system of Chu and Mathai to allow forming a searchable database. It would also have been obvious to replace the data taught by Baidya and Jaeger with events and the specific

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claimed calendaring data (taught by Mathai in view of the definition of “event”) since these are relevant to the system of Chu and Mathai, i.e. to allow forming a searchable database of events.

Also, the claimed invention, (the 3 parts as above discussed) is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Specifically Applicants argue Jaeger does not disclose extraction of date, time, description as claimed. Resp. at 4.

The Examiner notes Jaeger discloses presentation of lists of entries to a data entry person who selects some entries and manipulates data associated with such selected entry (abstract) which facts read on the claimed “extracting” by a human harvester step. See last OA p. 14-15.

Also, it has been explained, last OA p. 15:

“While the data in Jaeger is different, it would have been obvious to a PHOSITA to add the Jaeger’s teachings of data extraction from a list of entries and entering (typing in) the same or additional information by a person and having them stored, to Chu, Mathai and BAIDYA, to allow data entry by a data entry person. It would have been obvious to a PHOSITA then to replace Jaeger’s data categories with event date, time, location description data since these are relevant to the system of Chu, Mathai and BAIDYA.

As to the data entered by the automatic or human harvester, and presented to a searcher, being time, date, location, description of the event, Mathai, at citations above, and col. 16 lines 49-50, discloses searchable campus events.

Since an event is “something that occurs in a certain place during a particular interval of time, see <http://dictionary.reference.com/browse/event>”, 3rd entry (copy provided), associating time, date and location of the particular event to the event would have been obvious to allow searching by those parameters...). “

Applicants also argue there is no list presented to a human harvester listing online publications containing a calendar information describing an event. Resp. at 5.

The Examiner notes that Baidya teaches software and hardware system (which reads on a mining module providing the harvesting module) a list of the at least one online publication (e.g. news pages, paragraphs [0055] are online publications; e.g. lists of returned websites represented by URLs ([0064]-[0065]; [0067]) are lists of online publications) ;

the harvesting module programmed to store the list (e.g. [0067]: list is cleaned-up and stored) ; and

provide a user interface through which a human harvester inputs into a database data reflective of additional information corresponding to the harvested data (e.g. [0067] words and word counts are downloaded i.e. extracted from the websites, and purged, by human editors, [0067]; words in the website are used to categorized the website ([0067]); the categorization or classification is automatic [0068] or by human editors [0067]); e.g. paragraphs [0055]:extraction of companies data from company news pages; submission of list of the company news pages to human personnel for further review; companies data also submitted to human personnel for further “update” i.e. manipulation /review; also e.g. [0064])

Thus it would have been obvious to a PHOSITA to substitute into the harvested data and their related additional data (e.g. news pages and websites URL’s and their related additional data such as words or companies data) (as taught by BAIDYA), **events and events related data, (“ calendar data”), as taught by Mathai**, and to add such modified BAIDYA

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system into the Chu and Mathai system **to allow creation of an events and calendaring data searchable database to be used by a user of the Chu and Mathai system.**

Further as noted above, Jaeger discloses presentation of lists of entries to a data entry person who selects some entries and manipulates data associated with such selected entry (abstract) which facts also read on the claimed “extracting” by a human harvester step. See last OA p. 14-15.

While the data in Jaeger is different, it would have been obvious to add the Jaeger’s teachings of data extraction from a list of entries and entering (typing in) the same or additional information by a person and having them stored, to Chu, Mathai and BAIDYA, to allow data entry by a data entry person. Again ,it would have been obvious to a PHOSITA then to replace Jaeger’s data categories with event date, time, location description data since these are relevant to the system of Chu, Mathai.

Thus a logical line of reasoning has been presented for the combination of prior art as used. Further, at least for the harvester and human harvester part, since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself. That is, in the substitution of the events and associated data of Mathai, for the data used in Baidya and Jaeger. Thus, **the simple substitution of one known element for another producing a predictable result (the human harvester or automatic harvester just harvest events related data instead of other types of data) renders the claim obvious.** Contrary to argument, there is no reengineering of structures of the prior art, only substitution of data producing obvious predictable results.

Note: The above discussion is made an integral part of the rejection under 35 USC § 103.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 25-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Mathai US 6847969 B1, Baidya US 20030046311 A1, the definition of “event”, and Jaeger et al, US 6650346.**

Summary:

As discussed earlier, claims 36-41 and 42-43 (including independent claim 42) are directed to all three parts of the invention, as discussed above, i.e., an events data harvesting, requested data serving (to a user/searcher interpreted as e.g. a consumer), and bidding (by advertisers) system.

Independent claim 44 is a subset of claims 36-41 or 42-43, having only the harvesting part.

Independent claim 25 and its dependents 26-35 are other subsets of claims 36-41 or 42-43 having the harvesting and serving requested data parts.

As discussed earlier and below, it would have been obvious to separate the parts of the combination of claims 36-41 and 42-43 to arrive at claims 25-35, or claim 44. **The Examiner**

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thus finds it helpful to begin by discussing claims 36-41 and 42-43 since they are the main invention.

Claims 42, 36-40:

Chu discloses:

A system and method for collecting, calendaring, and presenting event data from independent sources, and system and apparatus to support such method, the method comprising:

providing to an advertiser access to a bidding module programmed to present a set of bid criteria selectable and ordered by an advertiser (Figure 33 and associated text) to place the advertising content on a computer of a user (Figure 1 items 140, 142 and associated text) **during a time window and geographical area** substantially arbitrarily specified by the advertiser (Figure 1 item 108, Figure 33 and associated text; col. 52 lines 17-27) to the bidding module;

inputting data corresponding to a plurality of events (Figure 1 item 106 and associated text: listing attributes read on events; Figure 11 and associated text);

creating by a system administrator a database (Figure 1 item 126 and associated text) containing the data to be searched, sorted, and filtered arbitrarily by a user using a corresponding database engine (Figure 1 items 118, 122, 120, 126, 142, 144 and associated text);

providing, via one or more servers (Figure 1 item 118; col. 16 lines 13-25) a user interface comprising navigational software presenting to a user a selection module to arbitrarily select and order, by a user, a set of ordered data from the data according to criteria selected and arbitrarily ordered by a user;

providing a simultaneous presentation to a user of both advertising content (see e.g. Figures 25a-26b with ads on the right of ordered listings) **and the ordered data reflecting the data as**

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selected and ordered by a user, including comparative listings (see e.g. Figures 25a-26b ordered listings; see e.g. Figures 28a-28b ordered listings with compare button);

receiving from the advertiser, via an advertiser interface (Figure 1 item 116 and associated text), **a bid** for displaying the advertising content corresponding to an advertisement (Figures 2 and 33 and associated text);

comparing the bid to other bids according to comparison criteria selected by the system administrator (Figure 2 and associated text);

and presenting to a user in the geographical area (including an “economically significant boundary independent of political boundaries”, see col. 13 lines 26-30) **specified by the advertiser** (e.g. Figure 33 and associated text) and through the user interface (Figure 1 item 142 and associated text), **an advertisement corresponding to the advertising content in conjunction with the ordered data** (see e.g. Figures 25a-26b with ads on the right of ordered listings).

Chu does not specifically disclose calendaring or list of events data returned to a user/requester.

However Mathai US 6847969 B1 discloses a vertical market place **for events buying and selling**. Mathai discloses method and system for providing personalized online services and advertisements **in public spaces including online local events searching and online ticketing** (abstract; col. 14 lines 28-44; col. 14 line to col. 15 line 28: **event searching by category (i.e. event description) and date**; navigation interface to buy tickets); database of events and related data (**i.e. calendaring data**) **is implied; database of ads and consumer profiles (Fig 3); ad targeting in real time based on the consumer demographics, learned behavior, time and location** (e.g. Figure 2 and associated text).

(Since Mathai teaches the event data is used for information and tickets buying, it is obvious that event or calendaring information would be presented in a normalized or standardized form, as earlier claimed, to provide data presentation consistency so to allow consumers to easily use the data).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made (herein a “PHOSITA”) to substitute to any requested data by a Chu user, events or calendaring data as taught by Mathai to allow the consumer user to search and obtain events data as taught by Mathai.

It would further have been obvious to a PHOSITA to substitute or add Mathai’s lists of events, or calendaring data as taught by Mathai to the lists of returned data taught by Chu if lists of events or calendaring data are desired. (In that case the Chu/Mathai system administrator would be called the calendar provider as earlier claimed).

Chu and Mathai do not disclose the details of an apparatus for data mining and harvesting events and events-related data to create a searchable database thereof.

However Baidya US 20030046311 A1 discloses dynamic search engine and database, harvester and **human harvester** to create database of categorized (classified) and subcategorized data by scanning web pages and extracting different types of data therefrom, using specific keywords (e.g. paragraphs [0055], [0064]). **Human harvesters (editors) are also used (e.g. paragraph [0055]).**

Specifically Baidya teaches a database creation technique:

“An industry database and method of creating same is provided. The database is created in accordance with a process that includes: identifying a plurality of web sites meeting at least one search criteria; automatically extracting URL addresses for each of the plurality of web sites; automatically categorizing each of the web sites and their corresponding URL addresses in accordance with a predefined category structure; and automatically indexing and storing each of the URL addresses in accordance with the predefined category structure in the database.... (abstract).

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Baidya also teaches that the database data is searchable by users:

“... A method of using a database system is also provided. The method includes: storing in a database, information extracted from a plurality of web sites, wherein the information is automatically categorized and indexed in accordance with a predefined category structure and includes a plurality of URL addresses corresponding to the plurality of web sites; receiving a user query; executing a search engine in response to the user query that searches a subset of the stored information extracted from a subset of the plurality of web sites, and subsequently searching said subset of web sites to find additional information responsive to said user query.” (abstract) . See also [0044].

That is Baidya teaches (excerpt and citations above), as claimed:

An apparatus for collecting and serving data, the apparatus comprising:

a data server, comprising a mining module and a harvesting module (e.g. paragraphs [0055], [0064]);

the mining module programmed to search online publications (independent from the data server), identify at least one online publication containing some specific type of information and provide to the harvesting module a list of the at least one online publication (e.g. paragraphs [0055], [0064]);

the harvesting module programmed to store the list and provide a user interface through which **a human harvester inputs into a database data reflective of additional information corresponding to the harvested data (e.g. paragraphs [0055], [0064]);**

the harvesting module further comprising a classification function effective to detect and determine additional information for the plurality of harvested data and to effect a classification thereof for inclusion in the database data as additional information searchable by a user (e.g. paragraphs [0055], [0064], abstract);

a database with database engine and data store (abstract).

Thus it would have been obvious to a PHOSITA to substitute into the harvested data and their related additional data taught by BAIDYA, events and events related data, such as calendar data that represent the event date and other event information, and to add such modified BAIDYA system into the Chu and Mathai system **to allow creation of an events and calendaring data searchable database to be used by a user of the Chu and Mathai system.**

It would have been further obvious to a PHOSITA that in such a combined system the sources from which event data are harvested from are event sponsors as claimed. It would also have been obvious to a PHOSITA to include the database creation technique as taught by BAIDYA in the Chu and Mathai system since the claimed invention is merely a combination of old elements (the elements being a harvesting, data mining, data base creation apparatus; an advertiser bidding apparatus; and a presentation of event search results and advertising apparatus), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Thus Chu, Mathai and BAIDYA, combined as above discussed, teach, as now claimed:

A method comprising: selecting a computer network;
hosting, by a serving entity, on the computer network an event server comprising a user interface module, mining module, harvesting module, bidding module, and database;
identifying, by the mining module, at least one first publication published on the computer network and containing calendar information describing at least one first event sponsored by a first sponsor independent from the serving entity;
formulating, by the mining module after the identifying, a list listing the at least one first publication;
passing, by the mining module, the list to the harvesting module;
receiving, by the bidding module, from an advertiser independent of the serving entity and first sponsor, a set of bid criteria controlling display of advertising content on the computer of a human user independent from the serving entity and the first sponsor and comprising criteria

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corresponding to a time window and geographical area substantially arbitrarily specified by the advertiser to the bidding module;
inputting into the user interface module, by the human user, a query;
receiving from the advertiser a bid for displaying the advertising content;
comparing the bid to other bids according to comparison criteria selected by the serving entity;
processing, by the event server, the query; and
presenting simultaneously via the user interface module, by the event server, in response to the query, the first data relating to the event, and advertising content.

However, even though a human harvester is taught in Baidya, the references above do not specifically teach the details of :

presenting or displaying, by the harvesting module, the list to a human harvester;
extracting, by the human harvester, from the at least one first publication a first date, first time, and first description characterizing the at least one first event;
entering, by the human harvester, the first date, first time, and first description into a harvester interface provided by the harvesting module;
storing, by the harvesting module after the entering, the first date, first time, and first description within the database;

However Jaeger et al, US 6650346 teaches presentation of a list of entries to a data entry person (human harvester), each list entry containing many data, selection of an entry by the human data entry person whereupon some data of the selected entry is shown to the person (abstract). **Selection of an entry from the list is interpreted as extracting some data by the person.** The Jaeger person fills (i.e. types) in additional data corresponding to the data of the selected entry and the new data for the entry is stored along with the entry other corresponding data in the database (abstract).

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While the data in Jaeger is different, it would have been obvious to a PHOSITA to add the Jaeger's teachings of data extraction from a list of entries and entering (typing in) the same or additional information by a person and having them stored, to Chu, Mathai and BAIDYA, to allow data entry by a data entry person. It would have been obvious to a PHOSITA then to replace Jaeger's data categories with event date, time, location description data since these are relevant to the system of Chu, Mathai and BAIDYA.

As to the data entered by the automatic or human harvester, and presented to a searcher, being time, date, location, description of the event, Mathai, at citations above, and col. 16 lines 49-50, discloses searchable campus events.

Since an event is "something that occurs in a certain place during a particular interval of time, see <http://dictionary.reference.com/browse/event>", 3rd entry (copy provided), associating **time, date and location** of the particular event to the event would have been obvious to allow searching by those parameters **(claims 42, 26-29)**.

Mathai teaches many searchable events presented to a searcher, thus discloses 1st and 2nd events **(claims 30-31)**. Note that the legal statuses of the sponsors of the events do not impact the method step of **claims 42 or 30**, thus are non-functional descriptive material and are given little patentable weight if any. Since Mathai teaches many events it would have been obvious to enter time, date, location, description of each of the event to make them searchable for each such event **(claims 32-34)**. Displaying the same data for each (i.e. 1st and 2nd) event to the searcher would have been obvious to give the searcher the needed information **(claims 42 and 35)**.

Claims 41, 43 (dependent of claims 40 and 42):

Chu, Mathai , BAIDYA and Jaeger teach the method of claim 40 or 42 as discussed above , and Chu discloses :

displaying the advertising content during the time window and in the geographical area specified by the advertiser (see citation of Chu above; Chu discloses many attributes of the listings advertisers can specify arbitrarily (see (Figure 33 and associated text) . Chu suggests

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timing as an attribute relevant for advertisers to specify since at col. 40 lines 60-62 and col. 49 lines 1-35, Chu discloses different charges to advertisers per different times frames).

Chu further discloses :

a geographical designation less than a state (col. 13 lines 24-32) or less than a entire city (col.13 lines 26-31).

Independent claims 25 and 44, and claims 26-35 (dependent of claim 25):

Chu, Mathai, BAIDYA and Jaeger combined as above discussed, disclose all the limitations of claims 25-35 and 44 thus disclose these claims. See discussion above.

Alternate rejection of claims 25-35, and 44:

5. **Claims 25-35 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Mathai US 6847969 B1, Baidya US 20030046311 A1, the definition of “event”, and Jaeger et al, US 6650346.**

Claims 25-35, and 44:

Claims 25-35, and 44 have substantially the same elements as claims 36-41 and 42-43 addressed above except for the bidding module and its attendant limitations. However elimination of an element or its functions have been held obvious. See *In re Karlson*, 136 USPQ 184, 186; 311 F.2d 581 (CCPA 1963). Also to make separable have been held obvious. *Nerwin v. Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, 129 USPQ 348, 349; 289 F.2d 522 (CCPA 1961).

Claims 25-35 are subsets of claims 36-41 and 42-43, having the harvesting and serving requested data parts but not the bidding part.

Thus, as held above, it would have been obvious to a PHOSITA to delete the bidding module and its functions from the combination of if not needed or desired, to arrive at claims 25-35.

Claim 44 is a subset of claims 36-41 and 42-43, having only the harvesting part. Thus, as held above, it would have been obvious to a PHOSITA to delete the bidding module and serving requested data part, and their functions from the combination of if not needed or desired, to arrive at claim 44.

One of ordinary skill in the art would have recognized that the results of the separation were predictable since as separate parts, each element merely would have performed the same function as it did before the combination.

Claim Rejections - 35 USC § 112

6. The previous rejection of claims 25-44 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn. Applicants have been persuasive in pointing out the support for the claims. See Resp. at 2-3.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Fox et al. US 7080018 B1 discloses Method for weather-based advertising *FIG. 3 shows the collection of data via web crawlers 310, direct connections to web sites 315 and manual entry 320. These entities represent sources of data, collectors of data, and means for inputting/receiving data. These collections of data are then sent to processing module 305 to reformat the data for use by external information source 230, and for processing by the invention.*

Morgenthaler US 20020032677 A1 Methods for creating, editing, and updating searchable graphical databases using human editors. [0053], Fig 2.

9 Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHANH H. LE whose telephone number is 571-272-6721. The Examiner can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Linda Jasmin can be reached on 571-272-6782. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

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/Khanh H. Le/

Primary Examiner, Art Unit 3688